

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

DAVID A. LACY,
Defendant.

MEMORANDUM DECISION AND
ORDER DENYING DEFENDANT'S
MOTION FOR ATTORNEY
DIRECTED *VOIR DIRE* AND FOR
JURY QUESTIONNAIRE

Case No. 2:09-CR-45 TS

This matter is before the Court on Defendant's Motion for Attorney Directed *Voir Dire* and Jury Questionnaire. Defendant moves for an order allowing the attorneys to direct *voir dire* and for the distribution of a jury questionnaire. The reason for this request is that "[t]his case has garnered significant exposure in the media" and "[i]t is likely that many if not most of the prospective jurors will have heard or otherwise become aware of details concerning this or related cases."¹ The government does not object to the use of a questionnaire, but does object to attorney directed *voir dire*, arguing that the Court's general *voir dire* practice is sufficient.

¹Docket No. 111.

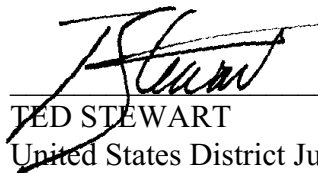
The Court will deny both Defendant's request for use of a jury questionnaire and for attorney directed *voir dire*. The Court can effectively choose a jury without the aid of either a jury questionnaire or attorney directed *voir dire*. While it is true that this case and/or related cases have generated media coverage, merely because jurors are exposed to such coverage does not automatically make those jurors ineligible for jury duty. The Tenth Circuit has stated that "[p]otential jurors . . . are not expected to be totally ignorant of the facts surrounding a case. Rather, jurors are sufficiently impartial under constitutional standards if they can lay aside any preconceived opinions regarding the outcome of the case and render a verdict based on the evidence presented in court."² The Court can make this determination through its normal *voir dire* process. The parties may, of course, submit to the Court appropriate proposed *voir dire* questions concerning pretrial publicity.

It is therefore

ORDERED that Defendant's Motion for Attorney Directed *Voir Dire* and Jury Questionnaire (Docket No. 111) is DENIED.

DATED June 29, 2011.

BY THE COURT:



TED STEWART
United States District Judge

²*Goss v. Nelson*, 439 F.3d 621, 627 (10th Cir. 2006) (quotation marks and citations omitted).